

SPECIAL MEETING NORTH SMITHFIELD TOWN COUNCIL

MARCH 3, 2014

KENDALL-DEAN SCHOOL AUDITORIUM

7:00 P.M.

The meeting began at 7:00 P.M. with the prayer and the pledge to the flag. Council members present were Ms. Alves, Mr. McGee, Mr. Yazbak, Mr. Zwolenski and Mr. Flaherty. Also in attendance were Town Administrator Hamilton and Town Solicitor Lombardi.

ZONING ORDINANCE AMENDMENT GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS

MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on an aye vote to continue this to April 7, 2014.

ZONING ORDINANCE AMENDMENT LAND UNSUITABLE FOR DEVELOPMENT

MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on an aye vote to continue this to April 7, 2014.

EXECUTIVE SESSION

MOTION by Ms. Alves, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to enter into executive session at 7:02 P.M.

March 3, 2014

pursuant to RIGL 42-46-5(A)(2) Sessions pertaining to collective

bargaining or litigation, or work sessions pertaining to collective bargaining or litigation to discuss 1.) Narragansett Improvement Company, et als v. Jill Gemma et als, C.A. PC08-7468, 2.) Narragansett Improvement Company, et als v. Vincent Marcantonio, et als, C.A. No. Pc08-6504, and 3.) Town of North Smithfield v. Narragansett Improvement Company, et als, PC 08-3674.

MOTION by Mr. McGee, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to come out of executive session at 7:53 P.M. and to seal the minutes. No motions were made and no votes were taken.

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted unanimously on a roll call vote to hold a special meeting on March 12, 2014.

WE THE PEOPLE

The students of the We The People group have once again won the state contest. They were present to explain what they do in class and what they are doing to raise additional funds. The Town Council members were invited to be judges at the upcoming dress rehearsal.

PUBLIC FACILITIES ADVISORY TASK FORCE PROPOSALS

Mr. Flaherty reviewed the chronology of the work of the Task Force and its goals.

David DeQuattro and Tracey Donnelly of Robinson Green Beretta Corporation were in attendance and gave a slide presentation of the proposals.

At the last meeting the issue of the rear driveway at the Annex was raised and has been addressed; that the state will reimburse forty percent of the cost for a brick and mortar addition; that the Kendall-Dean offices would be an economic development tool; and that Buildings 10 and 11 at Halliwell School would be used for storage and the rest of the buildings would be razed and the property itself would be kept for possible use in the future.

At the prior meeting, the Council requested that the School Committee submit a letter allowing the municipal offices to be located in Kendall-Dean. The School Committee subsequently voted to write a letter if the bond passes.

Following comments made by Mr. McGee, it was suggested that the School Committee could send a letter contingent upon the Town Council voting to approve the plans and contingent upon the question being approved by the voters in November.

Mr. Yazbak clarified that if the bond should pass, it is the Council that is in charge of the construction.

Ms. Alves asked if the Andrews School could be used for

pre-kindergarten but Mr. DeQuattro didn't think it would be large enough nor is there an elevator in the building.

Mr. Flaherty added that this plan also includes a \$2 million investment in the high school.

Mr. Michael Rapko felt it would be more likely to sell the plan if voters are made aware of cost savings on the municipal side as well as the school side.

Mr. Rapko also thought it would be better to break down the bond amount into two separate numbers, school and municipal, for better transparency to the voters. However, Mr. Flaherty responded that when this idea was first presented to the Council, it was always meant to be a comprehensive solution to all the town's space needs.

Ms. Hamilton named some of the benefits to the residents: consolidated town and school administration facilities, one-stop-shopping for town and school business, convenient, centrally located, abundant parking, ADA accessible, reduced utilities costs, energy efficient, secure and professional meeting space, upgraded police facilities and Municipal Court relocated to police department.

March 3, 2014

Ms. Hamilton named some of the benefits to the students:

decommissioning of Halliwell Memorial School, restructuring of North Smithfield Middle School to accommodate Grades 5 through 8, installation of third floor air conditioning at NSMS, restructuring of North Smithfield Elementary School to accommodate Pre-K through Grade 4, brick and mortar or modular addition to North Smithfield Elementary School, cafeteria addition to NSES, six state-of-the-art High School

science laboratories and updated locker rooms and shower facilities at North Smithfield High School.

MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on an aye vote to continue the public hearing and the vote to March 17, 2014.

PUBLIC HEARING RE: ZONE CHANGE FOR BENOIT REALTY (ANCHOR SUBARU)

This is a petition to rezone property described as Assessor's Plat 17, Lot 14, located off Eddie Dowling Highway from Residential Suburban (RS) to Business Highway (BH) subject to certain limitations, conditions, restrictions and additional allowable uses, special use permits and variances.

Town Planner Robert Ericson commented that there has been a composite markup of the plan floating around that is totally wrong. It

has created a tremendous misimpression of the intent of the zone change.

Mr. Michael Thompson of 152 Sayles Hill Road presented a petition signed by 75 nearby residents who requested the zone change be denied. They have concerns with blasting, buffer zones, traffic and real estate values.

Mr. Sean Kelly spoke about the effect this zone change would have on his quality of life.

Mr. Paul Soares wondered how far a business highway zone could extend from a highway. He asked if a performance bond and baseline study could be done to protect wells and septic systems if the zone change is granted.

Rachel Savoie stated many neighbors are concerned with the traffic. People bought their homes surrounded by woods and the buffer zone offered is not acceptable.

Lou Phaneuf has a lot of ledge in his back yard. His well is 125 feet from where blasting will occur. Home values will decrease. He lives next to a paper street and he would rather see homes built there.

Sandra Soares is a real estate agent and she stated there is no doubt that property values will be affected.

Mr. Zwolenski has looked at the map, has listened to testimony and believes this application is incompatible with the neighborhood. He stated he will be voting no.

Mr. McGee had concerns about the blasting.

Mr. Flaherty was surprised at the difference in comments from the last meeting.

Applicant Robert Benoit stated his intent has always been to work with the Planning Board and he has reached out to the neighbors for input as well.

MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on a roll call vote at 10:00 P.M. to continue the meeting to 10:30 P.M.

Mr. Benoit continued that with new dealerships being built in the nearby vicinity, he needs to be able to compete with them. Mr. Benoit reiterated that getting approval to change the zone is a first step. He still needs to go before the Planning Board to get approvals.

March 3, 2014

Industrial Seismologist Richard J. Groll was asked to examine the

project. In Rhode Island blasting is regulated by the State Fire Marshal's Office. The blasting contractor is regulated by about seven regulatory authorities and must have a license and insurance. Design for a site would be done in such a manner as to preclude the possibility of damage from vibrations. However, should there be damages, the remedy is to go to the State Fire Marshal's Office and file a complaint. Based on testing, plaster and drywall are most sensitive to vibrations. They are at least fifty percent more sensitive than masonry such as brick or block or ceramic tile and they are about ten to one hundred times, depending on the type of construction, less resistant than poured concrete. This is about the last material that would suffer change from blast vibrations. Even more resistant to blast vibrations are water wells, septic tanks and gas lines. There should be no change in the condition of any surrounding structures from modern blasting activities regardless of the depth of the cuts and the distance to the surrounding structures because they make smaller charges and they increase the number of repetitions within a blast to reduce the weight of explosives. Mr. Groll stated there is no regulation on offering inspections prior to blasting in the State of Rhode Island.

Mr. Flaherty asked how the pre-blast inspection would apply to water supply that is not visible.

Mr. Groll answered that they would record the condition of the wellhead, the ground around it and the water supply system within

the home. A pre-blast water test can also be done.

MOTION by Mr. Zwolenski and seconded by Ms. Alves to continue the hearing to April 7, 2014. The motion and second were subsequently withdrawn.

MOTION by Mr. Zwolenski to continue this meeting to 12:00 A.M. There was no second.

MOTION by Mr. Yazbak, seconded by Mr. McGee, and voted unanimously on a roll call vote at 10:30 P.M. to continue this meeting to 11:00 P.M.

Robert Ferrari, who is president of Water Solutions and a registered professional engineer, explained that one of the specialties of his firm is the investigation and evaluation of existing wells. In response to Mr. Flaherty's earlier question about a water supply that is not visible, Mr. Ferrari commented that a pre-blast evaluation can be done. He extracts the riser and well pump from the well and then uses a camera. The casing can also be examined. The seal between the bottom of the casing and the bedrock needs to be carefully examined as well.

Attorney Igliozzi stated that Mr. Benoit paid for pre-blasting well beyond the Massachusetts standard for those nine residents who live behind the back parcel for the sole purpose of establishing whether

or not there is a causal connection. Mr. Benoit said he will do both the well and the houses.

MOTION by Mr. Zwolenski, seconded by Ms. Alves and Mr. McGee, and voted unanimously on an aye vote to continue the public hearing for the petition to rezone property described as Assessor's Plat 17, Lot 14 to March 17, 2014.

MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on an aye vote to continue Old Business - Discussion, Vote or Other Action on Open Meetings Act Complaints/Findings to a date uncertain and to continue the public hearing on the proposed Charter amendments to April 21, 2014.

MOTION by Ms. Alves, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to continue the award of bids for a police vehicle, road materials and a truck with plow and sander to April 7, 2014.

March 3, 2014

HIRING OF OUTSIDE LEGAL COUNSEL AND AUDITING FIRM FOR SCHOOL DEPARTMENT MATTERS

In a discussion with Mr. Lombardi, Mr. Yazbak was told by Mr. Lombardi that he could hire outside counsel, Mr. Robinson, because it was in his contract. Mr. Yazbak feels the contract is in violation of the Town Charter and he doesn't understand how a contract with someone on his job duties and responsibilities can override provisions of the Charter. Now Mr. Robinson has hired an accounting firm to perform an audit of the school department. Both Mr. Robinson and a member of the accounting firm have worked on behalf of the school department in the past and Mr. Yazbak was unsure they could be independent. He feels that both Mr. Robinson and the auditing firm have been hired in violation of the Charter and his rights and responsibilities as a Town Councilor have been taken away from him. This whole process should have come before the Town Council.

When asked by Mr. Flaherty what section of the Charter he felt was being violated, Mr. Yazbak responded Article VI - Town Solicitor.

Mr. McGee agreed with Mr. Yazbak.

Having been advised by the Town Solicitor, Mr. Flaherty believed it is within the Town Solicitor's purview to hire outside counsel should it be determined it is necessary. The Council was briefed in executive session at the February 10th meeting and it was voted in open session to adopt an agreement that referenced the hiring of an independent accounting consultant to review the school's books.

The only way to close the school department deficit is to verify the extent of the deficit and that is what this accounting firm is doing. Mr. Flaherty's preference was to use an ad hoc committee but that was unacceptable to the School Committee.

Mr. Yazbak added that the Charter cannot be overridden by a contract.

MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on a roll call vote at 10:58 P.M. to extend the meeting to 11:15 P.M.

Mr. Yazbak left at this time.

Mr. Flaherty commented that it is Mr. Yazbak's opinion that the Charter has been violated but he has not demonstrated that. Mr. Flaherty is depending upon the legal advice of the Solicitor.

Mr. Lombardi stated that whether he has a contract or not, he has the inherent authority to retain counsel to represent the town. It happens in every other city/town in Rhode Island.

TRANSFER OF FUNDS TO ZONING SECRETARY LINE ITEM

Finance Director Brenda MacDonald explained that a new zoning board secretary was hired and has gone over the salary line. Building Inspector Robert Benoit has agreed to transfer \$1,100 from one of his

line items.

MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted 3 to 1 on a roll call vote (Mr. McGee voted no) to transfer \$1,100 from the Part-time Electrical Inspector Account #4241-172 to the Zoning Board Secretary Account #4161-147.

MOTION by Ms. Alves, seconded by Mr. Zwolenski, and voted 4 to 0 on an aye vote to adjourn at 11:08 P.M.

Respectfully submitted,

Debra A. Todd, Town Clerk